

VZCZCXRO0985
PP RUEHIK
DE RUEHTI #0054/01 0261543
ZNR UUUUU ZZH
P 261543Z JAN 10
FM AMEMBASSY TIRANA
TO RUEHC/SECSTATE WASHDC PRIORITY 8764
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE
RUCPDOG/USDOC WASHDC
RUCPCIM/CIM NTDB WASHDC

UNCLAS SECTION 01 OF 11 TIRANA 000054

SIPDIS

STATE FOR EEB/IFD/OMA
STATE FOR EUR/SCE

E.O. 12958: N/A

TAGS: [EINV](#) [EFIN](#) [ETRD](#) [ELAB](#) [KTDB](#) [PGOV](#) [USTR](#) [OPIC](#)

SUBJECT: INVESTMENT CLIMATE REPORT: PART TWO

TIRANA 00000054 001.4 OF 011

1G. PROTECTION OF PROPERTY RIGHTS

Intellectual Property Rights

The principal law that covers intellectual property rights and protects copyrights, patents, trademarks, stamps, marks of origin, and industrial designs is Law No. 9380 which is dated April 2005. In July 2003, GOA passed Anti-piracy law No 9124 which required television stations to broadcast only those shows and movies that they had legally licensed for broadcast. The law was successful in forbidding the broadcasting of pirated movies and programs, but it did not cover satellite or cable television programming. In order to close the loophole in the legislation and regulate adequately digital broadcasting, in May 2007 the Parliament approved the Law No. 9742 "On Digital Broadcasting". Albania is a signatory of different international agreements on Intellectual Property Rights Patents and Trademarks.

A new industrial property law was approved in July 2008. The new law brings Albanian legislation for the protection of industrial property into harmony with EU legislation, directives of the European Commission, the European Convention on patents, the TRIPS agreement (commercial aspects of industrial property rights) as well as other international agreements ratified by Albania in the field of industrial property.

In addition, amendments to the provisions implementing the Customs Code relating to intellectual property rights and brand controls were adopted in order to allow products to be classified as "fake", "pirated" or "liable to infringe the rights of patent or certificate owners".

Implementation of Copyright Law

There has been limited progress on the proper implementation of intellectual property rights. In 2006, the Albanian Copyright Office was established. It operates under the Ministry of Culture, Sport and Youth and has signed agreements with different stakeholders including the Competition Authority, the National Council of Radio and Television, the National Cinematography Centre, the Forum for the Protection of Producers and Screenwriters and the tax and customs administrations, with the aim of fighting piracy and enforcing the copyright law. However, the most successful institution in combating broadcast piracy remains NCRT which has tried to ensure that only licensed programming is allowed to be broadcast on television and penalized those stations in noncompliance. Nonetheless, law enforcement remains incomplete and violations of copyright and other intellectual property rights are common. The most frequently pirated products are western movies and sport events broadcasted by TV channels. Also pirated copies of DVDs and CDs, imported from other countries, are easily purchased in shops all over the country. The number of cases of violation of copyright law brought to court remains low.

The Directorate General for Patents and Trademarks (GDPT) was restructured, and registration and administration of patents, trademarks and industrial designs has been computerized. This has improved the processing of applications and the supply of information. A Board of Appeal was established in the Directorate for Patents and Trademarks and the Directorate completed the reorganization of its computer system. A bulletin of industrial property rights containing records of registrations and changes of intellectual property rights titles is published and an on-line version is available on the GDPT website. The Administrative Council of the EPO approved Albania's request for accession to the European Patent Convention and its ratification is underway.

Further capacity strengthening and additional human resources for both the Copyright Office and the GDPT are still required. The general level of knowledge about IPR and infringements remains poor and the main factors that hamper the enforcement of IPR laws are the lack of appropriate experience and qualifications of judges, prosecutors, customs administration and staff and low level of fines under the current law. Further efforts are needed to improve inter-institutional cooperation and the ability of customs authorities to detect counterfeit products.

Immovable Property Rights

Enforcement of immovable property rights in Albania remains an evolving issue. Overall there has been some progress on strengthening property rights, but proper coordination and further acceleration of restitution and compensation plans are needed. Unresolved property issues have undermined efforts to develop a

TIRANA 00000054 002.4 OF 011

functional land market and keep FDI well below its potential. Immovable property rights (land rights) are still far from well

defined, especially in the coastal areas where there is potential for tourism development. Large-scale property confiscation during communist rule and the subsequent nationalization of the economy completely altered Albania's economic landscape. Property restitution, corruption, illegal buildings and enforcement of court decisions are among the most serious challenges facing Albania in its economic development.

Currently, enforcement of property rights is pursued civil court system. Almost 70 percent of all civil cases in the Albanian courts involve property disputes; many of these cases linger for years before reaching a final ruling. To date, 216 Albanian citizens have filed suit with the European Court for Human Rights in Strasbourg against the GOA over property claims. To address this issue, and relieve an increasingly burdened court system, the GOA, with USG and other donor assistance, is finalizing an immovable properties registration system to establish proper title to private claims to land ownership.

The property registration process has begun in approximately 95% of the country but has only been finalized or completed in 25% of urban areas and 85% of rural areas. More lucrative land in high value coastal areas has not yet been fully registered due to existing disputes over property title. The main institutions dealing with property restitution and registration are the Agency for Restitution and Compensation and the Office for the Registration of Immovable Properties.

The presence of a large number of informal (unlicensed or unregistered) buildings spread all over the country has been another major impediment to secure property titles. In 2006, Parliament approved the law on the legalization of the informal buildings. The Agency for the Legalization, Urbanization and Integration of Informal Areas (ALUIZNI) is in charge of implementing the legalization process. The number of informal buildings is estimated to be 350,000 and the surface occupied is estimated to be 320,000 hectares. The first stage of submissions of self-declaration requests for legalization is completed. To date, the process is almost half way through since 50% of the informal constructions have been identified and approved for legalization.

IH. TRANSPARENCY OF REGULATORY SYSTEM

Albania's regulatory system is not fully transparent but the situation is improving. Businesses have difficulty obtaining copies of laws and regulations especially in their draft form. Laws and regulations are sometimes inconsistent, leading to unreliability in their interpretation. Proposed laws and regulations are sometimes not published in draft form for public comment. There has been modest improvement in this area recently as several state agencies operate well-organized websites which are updated regularly. Some agencies have undertaken steps to consult with business, civil society and affected groups about issues in proposed laws and regulations. Although Albania has taken some steps forward to improve business advocacy by reforming the legislation on Chambers of Commerce and by establishing the Business Advisory Council, business participation in the legislative processes remains limited.

II. EFFICIENT CAPITAL MARKETS AND PORTFOLIO INVESTMENT

The financial sector in Albania has in general been spared from the global financial turmoil, primarily due to the low amount of loans in relation to total deposits. Also the lack of a housing/construction bubble has minimized pressure on the banks. However, a significant reduction in bank deposits took place in the fall of September 2008 as individuals withdraw their money due to fear from losing their savings. Since October 2008 deposits dropped by about 15% and during 2009 they were below their top level. After summer 2009 there has been a stable increase in bank deposits and by the end of 2009 they reached their pre-crisis level. Lower deposits created some liquidity issues but banks were well equipped to face the situation. Banks have increased their equity capital to better face the situation and also BOA has an active monitoring program to ensure enough liquidity in the banking sector.

The financial sector is totally dominated by commercial banks funded with private capital. Currently, 16 banks are operating in the country - two domestically owned banks and 14 foreign or joint ventures. The degree of market concentration remains fairly high as the five largest banks dominate the market with about 75 percent of total assets. The performance of the financial sector in channeling savings towards productive investment has substantially improved, but still remains weak in comparison to Western standards. Banks in Albania offer standard banking services such as deposit accounts,

TIRANA 00000054 003.4 OF 011

foreign transfers, trade finance and, increasingly, mortgages.

Market competition has greatly strengthened and the quality of banking services provided to the public have significantly improved.

Major Western banks, such as the Italian Intesa SanPaolo Group and Societe Generale, entered the market through the purchase of domestic banks. Raiffeisen (Austrian) and several Greek Banks are also very active in the banking sector. The banking network has extended to most parts of Albania and developments in this respect are promising. In November 2009, there were 517 branches, up from 392 at the end of 2007 and 127 in 2005. Several banks offer ATM and Point-of-Sales terminals and their number is growing rapidly. In November 2009 there were 725 ATMs up from 335 at the end of 2006 and 3,936 Point-of-Sale terminals up from 1,183 at the end of 2006. Since 2005, most state employees receive their salaries through electronic transfers and have been offered debit cards for all their transactions. In 2008 the private sector also switched to paying salaries through electronic transfer. By September 2009 banks had issued 557,000 electronic payments cards (97 percent debit cards and 3 percent credit cards) up from 353,465 or 36.6% at the end of 2006. However, due to the negative effect of the financial crisis, there has been a reduction in the number of cash/credit cards that individuals use. The banking system has been a profitable investment sector and has companies have had significant profits over the past several years.

In the absence of a stock market, banking sector remains the main channel for business financing. Credit to the economy has experienced an impressive growth since 2005, in part due to the low starting point. The credit growth rate was 74 % in 2005, 56 % in

2006 and 50% in 2007 and even in 2008, loans grew by almost 30%. The growth has slowed down considerably during the first nine months of 2009 to about 16%. In November 2009 loans constituted 50.3% of total banking assets compared to 25% at the end of 2005. Credit to businesses made up 67% of banks' credit portfolios. The fast growth of credit has increased non-performing loans as well. Their share to total credit increased to almost 10% by November 2009 compared to 4.3% in July 2008 and just 2.3% at the end of 2005.

In order to keep credit growth at sustainable levels, supervision was strengthened during the last two years. The Law on Regulation of Credit Risk Management was amended, establishing higher capital requirements for banks that record credit growth exceeding set benchmarks. The credit information bureau opened in January 2008 and is contributing to an increase in the information and transparency in the banking sector. Its main responsibility is to track consumers' credit histories. The regulatory framework for banking supervision is, following its recent comprehensive overhaul, well-developed and continuing the process of adapting standard international practices. In addition to banks, lending through micro finance institutions and savings and credit associations is effective in serving those segments of the population that do not have easy access to bank financing.

The service of e-banking transactions as a banking product appeared after 2004 and has slowly expanded but still remains underutilized by the public. Multiple banks offer this service for certain clients (mainly businesses for carrying out transfers and other specialized payments). The rest of the sector is likely to follow as e-banking transactions gain popularity.

The low level of financial intermediation remains an impediment to the development of the private sector, particularly to small and medium enterprises (SMEs). Business report that the following issues affect access to credit in Albania; high interest rates, distrust of the banking system, high operating costs of banks and poor business/project proposals. Credit lines can be obtained on the local market, but interest rates can be high; under some circumstances, between 10 and 15 percent. To obtain credit, applicants usually need to fulfill the following criteria which, varies from bank to bank: satisfactory business plan, credit security (usually by mortgage), applicant's own contribution in the investment project (about 40 percent of the value) and the entity requesting credit needs to be at least 51 percent privatized.

The insurance industry has also experienced 9% rates of growth over recent years but, relative to neighboring countries, the market for insurance in Albania remains largely untapped, especially for life insurance. The insurance market experienced an increase of 9.43 % for the period January - November 2009 compared with the same period of the previous year. Gross insurance premiums amounted to \$75.2 million for the same period. Non-life insurance represents 91% of the total premiums while the rest is life insurance.

The sector is expanding and has attracted foreign investors as two Austrian companies and one Greek have entered the market through the

TIRANA 00000054 004.4 OF 011

acquisition of controlling shares of domestic companies. American Reserve Life Insurance became the most recent company to enter the domestic market through its privatization of INSIG. There are ten companies present in the insurance market, eight in the general non-life insurance and two offering only life insurance. GOA has launched the privatization process of the state owned company INSIG but the process has been unsuccessful mainly due to the lack of interest by international companies.

J. POLITICAL VIOLENCE

Albania held parliamentary elections on June 28, 2009. The new government was formed with a coalition between the ruling Democratic Party (DP) and the Movement for Socialist Integration (LSI). The Socialist Party (SP) has boycotted parliament since it convened in September 2009 and has called for investigations into alleged electoral fraud in the June 28 elections. Despite a highly polarized political atmosphere, the elections and the ensuing boycott have been peaceful and political violence has been avoided. Small crime, specifically incidents of extortion, theft and robbery, continue to be of some concern to the business community. Nonetheless, the domestic climate has been steadily improving and the violent crime rate has substantially decreased. Albania is a steady source of stability in the region and relations with neighboring countries are friendly. The U.S. enjoys a particularly amicable bilateral relationship with Albania, which is a staunch American ally in the fight against international terrorism and has contributed troops to the war efforts in Iraq and Afghanistan. Albania joined NATO in April 2009 and has begun the process for European Union accession.

K. CORRUPTION

Corruption, including bribery, raises the costs and risks of doing business and remains an area of concern in Albania. Corruption has a corrosive impact on both market opportunities overseas for U.S. companies and the broader business climate. It also deters international investment, stifles economic growth and development, distorts prices, and undermines the rule of law. The government has made progress in reducing corruption through strengthening judiciary and police capabilities and introducing new technologies that automate government processes and increase transparency. Corruption is still believed to be endemic in Albania and a major challenge to economic development.

Legal Background -----

Albania has ratified several international treaties and conventions relating to corruption and is member of some of the major international organizations and programs dealing with corruption and/or organized crime. Albanian legislation has been amended and changed frequently in recent years to strengthen the framework dealing with anti-corruption and organized crime in order to bring the Albanian legislation in line with civil and criminal conventions of the European Union.

Albania has ratified The Civil Law Convention on Corruption (Council

of Europe); The Criminal Law Convention on Corruption (Council of Europe); The Additional Protocol to Criminal Law Convention on Corruption (Council of Europe); the United Nations Convention Against Corruption (UNCAC). Albania has also ratified a number of key conventions in the broader field of economic crime, including the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (2001) and Convention on Cybercrime (2002). Albania has been a member of the Group of States Against Corruption (GRECO) since the ratification of the Criminal Law Convention on Corruption in 2001 and has been following the recommendation of GRECO related to incrimination and transparency of political party funding. Albania is also a member of the Stability Pact Anti-Corruption Network (SPAI).

Bribery is illegal in Albania. Under the Albanian penal code both active and passive bribing, abuse of office and undue influence are considered criminal offences. In addition to basic corruption offenses, there are specific criminal provisions addressing corruption by persons exercising public functions, high State officials and locally elected persons, judges, prosecutors and employees of the judicial bodies, private sector, foreign public officials, etc. According to the EU progress report 2009, out of thirteen recommendations from the Council of Europe Group of States against corruption (GRECO) report on Albania, two recommendations regarding the rules on political parties financing remain to be addressed.

The implementation of the Intersectoral Strategy on the Prevention and Combating of Corruption 2008-2013 adopted in October 2008 has

TIRANA 00000054 005.4 OF 011

started. However, realistic implementation mechanisms and timeframes are missing, together with monitoring indicators and adequate resources. The government has also embarked on reforms that aim at tackling corruption by minimizing direct contact between the private sector and the administration. E-government reforms like e-procurement, e-taxation, one-stop-shop for registration and licensing of businesses have had a positive impact in reducing corruption as a result of direct contacts.

Main institutions involved in combating corruption include the Inter-Ministerial Anti-Corruption Task Force headed by the Prime Minister. This structure replaced the former Anti-Corruption Monitoring Group and according to the law serves as a coordinating body for anti-corruption initiatives. The Anti-Corruption Task Force is supported by the Department of Internal Administrative Control and Anti-Corruption (DIAC) which has relatively wide-ranging powers to investigate allegations of irregularities by public officials. DIAC serves as an Inspectorate over all central executive public institutions and is mandated to investigate allegations of procedural irregularities and irregularities in the public finances. It reports to the Prime Minister. The Inspectorate for the Management of Assets (HIDAA) established in 2003 collects the annual declarations of assets and local executive agencies as well as politicians, and supervises the prevention of conflicts of interest situations. Police authorities and the Prosecutor General's Office are in charge of criminal investigations and law enforcement while the State Audit Commission and internal auditing units within different state institutions inspect, assess and report alleged cases of corruption. The Joint Investigative Unit against corruption and economic crime was established in 2007 in the Tirana District Prosecution Office. The unit is a multi-agency taskforce composed of prosecutors and judicial police officers working together on specific investigations. Based on the success of the unit, six more units have been established in regions throughout Albania to prosecute corruption and economic crimes outside Tirana. The High State Control is the highest institution of economic and financial control. It supervises the economic activity of state institutions and other state juridical persons as well as the use and preservation of state funds by the organs of central and local government. It is subject only to the Constitution and laws, and the Head of the High State Control is appointed and dismissed by the Assembly upon proposal of the President. In the Judiciary, the High Council of Justice is in charge of appointment and removal of judges and prosecutors in the first and second instances. Specialized inspectors investigate allegations of misconduct of judges and the High Council of Justice then takes the relevant disciplinary measures, including removal. However, corruption remains a major problem. Conviction rates in corruption cases remain low.

U.S. Companies

It is important for U.S. companies, irrespective of their size, to assess the business climate in the relevant market in which they will be operating or investing, and to have an effective compliance program or measures to prevent and detect corruption, including foreign bribery. U.S. individuals and firms operating or investing in foreign markets should take the time to become familiar with the relevant anticorruption laws of both the foreign country and the United States in order to properly comply with them, and where appropriate, they should seek the advice of legal counsel.

The U.S. Government seeks to level the global playing field for U.S. businesses by encouraging other countries to take steps to criminalize their own companies' acts of corruption, including bribery of foreign public officials, by requiring them to uphold their obligations under relevant international conventions. A U.S. firm that believes a competitor is seeking to use bribery of a foreign public official to secure a contract should bring this to the attention of appropriate U.S. agencies, as noted below.

U.S. Foreign Corrupt Practices Act: In 1977, the United States enacted the Foreign Corrupt Practices Act (FCPA), which makes it unlawful for a U.S. person, and certain foreign issuers of securities, to make a corrupt payment to foreign public officials for the purpose of obtaining or retaining business for or with, or directing business to, any person. The FCPA also applies to foreign firms and persons who take any act in furtherance of such a corrupt payment while in the United States. For more detailed information on the FCPA, see the FCPA Lay-Person's Guide at: <http://www.justice.gov/criminal/fraud/docs/dojdocb.html>.

Other Instruments: It is U.S. Government policy to promote good

governance, including host country implementation and enforcement of anti-corruption laws and policies pursuant to their obligations under international agreements. Since enactment of the FCPA, the United States has been instrumental to the expansion of the international framework to fight corruption. Several significant components of this framework are the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Antibribery Convention), the United Nations Convention against Corruption (UN Convention), the Inter-American Convention against Corruption (OAS Convention), the Council of Europe Criminal and Civil Law Conventions, and a growing list of U.S. free trade agreements.

OECD Antibribery Convention: The OECD Antibribery Convention entered into force in February 1999. As of December 2009, there are 38 parties to the Convention including the United States (see <http://www.oecd.org/>). Major exporters China, India, and Russia are not parties, although the U.S. Government strongly endorses their eventual accession to the Convention. The Convention obligates the Parties to criminalize bribery of foreign public officials in the conduct of international business. The United States meets its international obligations under the OECD Antibribery Convention through the U.S. FCPA. Albania is not a signatory country of the OECD Convention on Corruption.

UN Convention: The UN Anticorruption Convention entered into force on December 14, 2005, and there are 143 parties to it as of December 2009 (Please go to see <http://www.unodc.org/unodc/en/treaties/CAC/signatories.html>). The UN Convention is the first global comprehensive international anticorruption agreement. The UN Convention requires countries to establish criminal and other offenses to cover a wide range of acts of corruption. The UN Convention goes beyond previous anticorruption instruments, covering a broad range of issues ranging from basic forms of corruption such as bribery and solicitation, embezzlement, trading in influence to the concealment and laundering of the proceeds of corruption. The Convention contains transnational business bribery provisions that are functionally similar to those in the OECD Antibribery Convention and contains provisions on private sector auditing and books and records requirements. Other provisions address matters such as prevention, international cooperation, and asset recovery. Albania signed the UN Anti-Corruption Convention on December 2003 and ratified it in 2006.

OAS Convention: In 1996, the Member States of the Organization of American States (OAS) adopted the first international anticorruption legal instrument, the Inter-American Convention against Corruption (OAS Convention), which entered into force in March 1997. The OAS Convention, among other things, establishes a set of preventive measures against corruption, provides for the criminalization of certain acts of corruption, including transnational bribery and illicit enrichment, and contains a series of provisions to strengthen the cooperation between its States Parties in areas such as mutual legal assistance and technical cooperation. As of December 2009, the OAS Convention has 33 parties (see <http://www.oas.org/juridico/english/Sigs/b-58.html>)

Council of Europe Criminal Law and Civil Law Conventions: Many European countries are parties to either the Council of Europe (CoE) Criminal Law Convention on Corruption, the Civil Law Convention, or both. The Criminal Law Convention requires criminalization of a wide range of national and transnational conduct, including bribery, money-laundering, and account offenses. It also incorporates provisions on liability of legal persons and witness protection. The Civil Law Convention includes provisions on compensation for damage relating to corrupt acts, whistleblower protection, and validity of contracts, inter alia. The Group of States against Corruption (GRECO) was established in 1999 by the CoE to monitor compliance with these and related anti-corruption standards. Currently, GRECO comprises 46 member States (45 European countries and the United States). As of December 2009, the Criminal Law Convention has 42 parties and the Civil Law Convention has 34 (see www.coe.int/greco.)

Free Trade Agreements: While it is U.S. Government policy to include anticorruption provisions in free trade agreements (FTAs) that it negotiates with its trading partners, the anticorruption provisions have evolved over time. The most recent FTAs negotiated now require trading partners to criminalize "active bribery" of public officials (offering bribes to any public official must be made a criminal offense, both domestically and trans-nationally) as well as domestic "passive bribery" (solicitation of a bribe by a domestic official). All U.S. FTAs may be found at the U.S. Trade Representative Website: <http://www.ustr.gov/trade-agreements/free-trade-agreements>.

Local Laws: U.S. firms should familiarize themselves with local anticorruption laws, and, where appropriate, seek legal counsel.

While the U.S. Department of Commerce cannot provide legal advice on local laws, the Department's U.S. and Foreign Commercial Service can provide assistance with navigating the host country's legal system and obtaining a list of local legal counsel.

Assistance for U.S. Businesses: The U.S. Department of Commerce offers several services to aid U.S. businesses seeking to address business-related corruption issues. For example, the U.S. and Foreign Commercial Service can provide services that may assist U.S. companies in conducting their due diligence as part of the company's overarching compliance program when choosing business partners or agents overseas. The U.S. Foreign and Commercial Service can be reached directly through its offices in every major U.S. and foreign city, or through its Website at www.trade.gov/cs.

The Departments of Commerce and State provide worldwide support for qualified U.S. companies bidding on foreign government contracts through the Commerce Department's Advocacy Center and State's Office of Commercial and Business Affairs. Problems, including alleged corruption by foreign governments or competitors, encountered by U.S. companies in seeking such foreign business opportunities can be brought to the attention of appropriate U.S. government officials, including local embassy personnel and through the Department of Commerce Trade Compliance Center "Report A Trade Barrier" Website at

tcc.export.gov.

Guidance on the U.S. FCPA: The Department of Justice's (DOJ) FCPA Opinion Procedure enables U.S. firms and individuals to request a statement of the Justice Department's present enforcement intentions under the antibribery provisions of the FCPA regarding any proposed business conduct. The details of the opinion procedure are available on DOJ's Fraud Section Website at <http://www.justice.gov/criminal/fraud/fcpa>. Although the Department of Commerce has no enforcement role with respect to the FCPA, it supplies general guidance to U.S. exporters who have questions about the FCPA and about international developments concerning the FCPA. For further information, see the Office of the Chief Counsel for International Counsel, U.S. Department of Commerce, Website, at http://www.ogc.doc.gov/trans_anti_bribery.html. More general information on the FCPA is available at the Websites listed below.

Exporters and investors should be aware that generally all countries prohibit the bribery of their public officials, and prohibit their officials from soliciting bribes under domestic laws. Most countries are required to criminalize such bribery and other acts of corruption by virtue of being parties to various international conventions discussed above.

Anti-Corruption Resources

Some useful resources for individuals and companies regarding combating corruption in global markets include the following:

Information about the U.S. Foreign Corrupt Practices Act (FCPA), including a "Lay-Person's Guide to the FCPA" is available at the U.S. Department of Justice's Website at: <http://www.justice.gov/criminal/fraud/fcpa>.

Information about the OECD Antibribery Convention including links to national implementing legislation and country monitoring reports is available at: <http://www.oecd.org>. See also new Antibribery Recommendation and Good Practice Guidance Annex for companies: <http://www.oecd.org/dataoecd/11/40/44176910.pdf>

General information about anticorruption initiatives, such as the OECD Convention and the FCPA, including translations of the statute into several languages, is available at the Department of Commerce Office of the Chief Counsel for International Commerce Website: <http://www.ogc.doc.gov/>

Transparency International (TI) publishes an annual Corruption Perceptions Index (CPI). The CPI measures the perceived level of public-sector corruption in 180 countries and territories around the world. The CPI is available at: <http://www.transparency.org/>. TI also publishes an annual Global Corruption Report which provides a systematic evaluation of the state of corruption around the world. It includes an in-depth analysis of a focal theme, a series of country reports that document major corruption related events and developments from all continents and an overview of the latest research findings on anti-corruption diagnostics and tools. See <http://www.transparency.org/publications/gcr>.

The World Bank Institute publishes Worldwide Governance Indicators (WGI). These indicators assess six dimensions of governance in 212

TIRANA 00000054 008.4 OF 011

countries, including Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law and Control of Corruption. See http://info.worldbank.org/governance/wgi/sc_country.asp. The World Bank Business Environment and Enterprise Performance Surveys may also be of interest and are available at: <http://go.worldbank.org/RQXXYJ6210>.

The World Economic Forum publishes the Global Enabling Trade Report, which presents the rankings of the Enabling Trade Index, and includes an assessment of the transparency of border administration (focused on bribe payments and corruption) and a separate segment on corruption and the regulatory environment. See <http://www.weforum.org>

Additional country information related to corruption can be found in the U.S. State Department's annual Human Rights Report available at <http://www.state.gov/g/drl/rls/hrrpt/>.

Global Integrity, a nonprofit organization, publishes its annual Global Integrity Report, which provides indicators for 92 countries with respect to governance and anti-corruption. The report highlights the strengths and weaknesses of national level anti-corruption systems. The report is available at: <http://report.globalintegrity.org/>.

4.L. BILATERAL INVESTMENT AGREEMENTS

A bilateral investment treaty between the United States and Albania was signed in 1995 and entered into force on January 3, 1998. This treaty, inter alia, ensures that U.S. investors receive national or most-favored-nation treatment and provides for dispute settlement. As of June 1, 2009, Albania has concluded bilateral investment protection agreements with the following countries:

Agreements in force:

Greece, Germany, Italy, France, Austria, Netherlands, United Kingdom, Denmark, Sweden, Portugal, Belgium and Luxembourg, Spain, Finland, Hungary, Slovenia, Switzerland, USA, Turkey, Romania, Bulgaria, Macedonia, Russia, Israel, , China, Malaysia, Republic of Korea, Serbia, Montenegro, Moldavia, Kosovo and OPEC Fund for International Development.

Signed Agreements:

Ukraine, Tunisia, Syrian Arab Republic, Poland, Lithuania, Bosnia & Herzegovina, Islamic Republic of Iran, Kuwait, Libyan Arab Jamahiriya, Egypt, Czech Republic and Croatia.

Albania has also signed agreements for the avoidance of double

taxation and the prevention of fiscal evasion with respect to taxes on income and on capital with many countries, which have priority over Albanian domestic laws.

Tax treaties are in force with the following countries:
Poland, Hungary, Czech Republic, Italy, Sweden, Greece, Malta, Belgium, Netherlands, France, Norway, Switzerland, Rumania, Bulgaria, Macedonia, Croatia, Moldova, Kosovo, Turkey, Russian Federation, Malaysia, China, Egypt, Serbia, Montenegro, South Korea, Austria and Latvia. Agreements are signed with Luxembourg, Spain, Singapore and Ireland and are awaiting ratification by parliaments.

M. OPIC AND OTHER INVESTMENT INSURANCE PROGRAMS

The Overseas Private Investment Corporation (OPIC), a USG sponsored entity, can make insurance and project finance resources available to U.S. investors in Albania. OPIC's three main activities are risk insurance, project finance and investment funds. Albania has also signed the MIGA Convention, which established the Multilateral Investment Guarantees Agency (MIGA). MIGA provides investment guarantees against certain non-commercial risks (i.e., political risk insurance) to eligible foreign investors for qualified investments in developing member countries. MIGA's coverage is against the following risks: currency transfer restriction, expropriation, breach of contract, and war and civil disturbance. It provides insurance against risks similar to that offered by OPIC; MIGA and OPIC can work together on projects. MIGA offers long-term (up to 20 years) political risk insurance coverage to eligible investors for qualified investments.

In 1998, OPIC-supported the \$200 million Southeast Europe Equity Investment Fund, which invested heavily in Southeastern Europe. OPIC supported its successor, SEEF II managed by Bedminster Capital. SEEF II has invested in the Albanian health sector by purchasing a

TIRANA 00000054 009.4 OF 011

private hospital now known as the American Hospital as well one of the largest Internet Providers in Albania, ABCOM. For more information on OPIC please visit <http://www.opic.gov>

Overseas Private Investment Corporation
1100 New York Ave., NW Washington, DC 20527
Tel: 202-336-8400
Email for general business inquiries to: info@opic.gov

N. LABOR

Labor relations between employee and employer are regulated by individual employment contracts pursuant to Law 8549, dated January 11, 1999 ("On The Status Of The Civil Employee And The Labor Code") updated in 2003. The GOA has established the National Council of Labor, composed of government officials, trade unions and employers associations. Its major goal is to improve social dialogue between the government, management and employees. The institutions that deal with the labor market are: Ministry of Labor and Social Affairs, National Employment Service, State Labor Inspectorate and other private actors like Private Employment Agencies, and Private Vocational Training Centers.

Employers and employees have the right to form trade unions (Labor Code, article 176). Trade unions are organized at the national level (according to industrial sector) and at the company level. The right to strike is sanctioned by Law no. 7458 (January 12, 1991) and by the Labor Code. Trade unions have the right to negotiate wages, working conditions, etc., and the employment contracts are applicable both to union and to non-union workers. Two main national-level trade unions, both affiliated with the ITUC (International Trade Union Confederation) are the Confederation of Trade Unions (KSSH) and The Union of the Independent Trade Unions of Albania (BSPSH). Employment contracts can be for a limited or an unlimited period, but as a general rule employment contracts are signed for an unlimited period if the duration is not specified properly in the contract.

The labor force in Albania is about two million people, of which almost 1.2 million workers live abroad, mostly in Greece and Italy. During the third quarter of 2009, the official unemployment rate reached 12.76%. A high proportion of Albanians under-40 speaks two languages. Albanian youth generally speak Italian and Greek and English are common among the younger generation. While some members of the labor force are highly skilled, many work in low-skill industries or have out-of-date technological skills. However, Albanians are rapidly learning modern market practices and often display impressive entrepreneurship.

Albania has a tradition of strong secondary education that prepare students to enter the labor market. Elementary education is compulsory and a large percentage of those who finish elementary school continue to high school. 62 percent of high school graduates go on to college. The GOA has opened new public universities in Albania which along with the new private universities represent impressive growth in this sector. In addition, the number of students who receive graduate degrees abroad has increased significantly, establishing a generation of skilled professionals which the government is trying to lure back to Albania through the Brain Gain Project (a UNDP program offering financial incentives to Albanians educated abroad to return to Albania to work). In 2007, the GOA established the Excellency Fund which aims to promote and financially reward youngsters and students during their studies.

The average salary in public administration during the third quarter of 2009 amounted to 42,000 leke (about \$450) monthly. In May 2009, the GOA increased the minimum monthly wage applicable for both the public administration and the private sector to 18,000 leke (about \$200), which is still among the lowest in the region. However, since 2008, to counter informality in the labor sector due to under reporting of revenue by businesses, the government is using minimum reference salaries (MRS) for the private sector. The MRS establishes a standard wage depending on job code for all employees and is used to calculate both the personal income tax and the rate of contributions for social and health insurance. It is not necessarily the actual salary an employee receives.

O. CORPORATE SOCIAL RESPONSIBILITY

In general, there is little awareness of corporate social

responsibility among producers and consumers with the exceptions of large companies, mostly foreign companies, which try to employee social corporate responsibility principles. The laws and legislation related to CSR exist in Albania and if implemented fully could constitute a strong base for further development of CSR practices in Albania. Even academic instruction on CSR in Albania is in a very early stage of development. Corporate Governance

TIRANA 00000054 010.4 OF 011

course, Environmental Engineering and Business Ethics curricula have only been introduced in the past several years at some universities.

1P. COMPETITION FROM STATE-OWNED ENTERPRISES

In general, there is little discrimination between public and private companies operating in the same sector but there have been allegations by businesses that believe state-owned companies were granted preferential treatment in government contracts.

Privatization process of SOEs in Albania is nearing completion and SOEs are active only in few sectors like extraction and sale of oil and gas (Albpetrol), energy generation (KESH), insurance (INSIG) and ports.

1Q. FOREIGN-TRADE ZONES/FREE PORTS

The GOA approved Law 9789, dated July 19. 2007 "On the Establishment and Functioning of Economic Zones," abolishing Law 8636, dated July 6, 2000, "On Free Zones." The current legislation regulates the establishment of economic zones and related matters and makes the establishment and the functioning of such zones more efficient. It anticipates the establishment of free trade zones and industrial parks near ports, airports or at the crossroads of international transport. Economic zones are proposed by the Ministry of Economy and approved by the Council of Ministers on a case-by-case basis. The latter has the power to define the status of the zone (either a free zone or an industrial park), areas and boundaries, the economic activities to be performed within the zones, the period of the zone functioning, the method of granting the permission (lease, concession, etc.) and the procedures for the selection of the "developer." The selection of the "developer" of the economic zones is based on the criteria defined in the law 9663, dated December 18, 2006 "On Concessions."

During 2007-2009, the GOA approved the construction of several industrial parks: Shengjin, Koplik, Vlore, Elbasan, Lezhe, and Shkoder and one industrial and energy park in Spitalle, Durrës (the largest, with 850 hectares). Four of these parks are located near the main ports of Albania - Durrës, Vlore, Shengjin. The developers for the Shengjin, Vlora and Koplik/Shkoder have been selected while selection of other developers is still in process as of January 12009.

Industrial zones may be used for production, manufacturing, agro-processing, trade, export-import and supporting activities. Albinvest will serve as a "one-stop-shop" for the licensing of tenants. The development of economic zones will promote economic growth and increase employment and the competitiveness of the Albanian economy.

In 2009, Albanian government approved the first free zone adjacent to the approved container port in Vlore. The Ministry of Economy and Energy, initiated a process of open international tender for the execution and completion of a Concession Agreement (with a duration of 35 years), for a 478 hectares area. The tender deadline was December 18 and the Ministry is expected to announce the winner.

1R. FOREIGN DIRECT INVESTMENT STATISTICS

The FDI has increased although it still remains among the lowest in the region. The cumulative FDI is also the lowest in the region. The Bank of Albania reported the following figures for foreign direct investment in Albania. Regardless of numerous contracts, only a few projects materialized in 2009.

FDI in million Euro per Year (2004)279, (2005)212, (2006)259, (2007)481, (2008)653, (2009)580*

Source: Bank of Albania

*BoA estimate for the first three quarters of 2009

FDI during the first nine months of 2009 is estimated to have reached 580 million euro despite optimistic GOA projections for 2009 fueled mainly by strong investor interest witnessed during 2007-2008. A large part of FDI is due to privatizations. The Albanian government collected 103 million Euro from the privatization of 76 percent of the shares of the distribution arm of Albanian Power Corporation; 48 million Euro from the privatization of 12.6 percent of AMC state controlled shares; 5 million euro from the privatization of 40% of GOA controlled shares of the United Bank of Albania. INSIG (insurance company) privatization failed during the negotiation process with the winner and it might take place during 2010.

Leading investor nations in Albania include: Italy, Greece, Turkey,

TIRANA 00000054 011.4 OF 011

Austria, Germany, Canada, Spain and the U.S. Foreign investment focuses on financial sector, oil and gas production, telecommunications, mining, metallurgy, energy, manufacturing and cement production.